

HB0069S01 compared with HB0069

~~deleted text~~ shows text that was in HB0069 but was deleted in HB0069S01.

inserted text shows text that was not in HB0069 but was inserted into HB0069S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Patrice M. Arent proposes the following substitute bill:

SICK LEAVE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to certain employment benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain employers to allow an employee to use at least 10 days accrued sick leave to care for an immediate family member under certain conditions;
- ▶ prohibits an employer from taking adverse action against an employee for using sick leave in accordance with this bill;
- ▶ allows an employee to file a written complaint with the Division of Antidiscrimination and Labor for an alleged violation of this bill;
- ▶ grants the division enforcement and rulemaking authority to implement the

HB0069S01 compared with HB0069

provisions of this bill; and

- provides that this bill does not extend the maximum period of leave available to an employee under specified federal law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-28a-101, Utah Code Annotated 1953

34-28a-102, Utah Code Annotated 1953

34-28a-201, Utah Code Annotated 1953

34-28a-202, Utah Code Annotated 1953

34-28a-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-28a-101** is enacted to read:

CHAPTER 28a. MISCELLANEOUS EMPLOYMENT BENEFITS

34-28a-101. Title.

This chapter is known as "Miscellaneous Employment Benefits."

Section 2. Section **34-28a-102** is enacted to read:

34-28a-102. { Use of sick leave for care of immediate family members } Definitions.

~~{(1)}~~ As used in this ~~{section}~~ chapter:

~~{a}~~1) "Adverse action" means the same as that term is defined in Section 34-48-102.

~~{b}~~2) "Division" means the Division of Antidiscrimination and Labor created in

Subsection 34A-1-202(1)(d).

~~{c}~~3) (a) "Eligible employer" means an employer, as defined in Section 34A-2-103, that offers sick leave to the employer's employees under a written sick leave policy.

~~{d}~~b) "Eligible employer" does not include an employer as described in:

(i) the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351 et seq.;

(ii) the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.; or

HB0069S01 compared with HB0069

(iii) other federal law comparable to the law in Subsection (3)(b)(i) or (ii).

(4) (a) "Employee" means the same as that term is defined in Section 34A-2-104.

(b) "Employee" does not include an employee:

(i) of an employer subject to the provisions of the Railroad Labor Act, Subchapter II, 45 U.S.C. Sec. 151 et seq.; or

(ii) as described in:

(A) the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351 et seq.;

(B) the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.; or

(C) other federal law comparable to the law in Subsection (4)(b)(ii)(A) or (B).

(~~f~~~~e~~)5) "Immediate family member" means an employee's spouse, domestic partner, child, foster child, step-child, grandchild, parent, step-parent, mother-in-law, father-in-law, sibling, grandparent, or any individual for whom the employee is a legal guardian.

(~~f~~~~d~~) (~~f~~~~i~~)6) "Paid time-off policy" means a policy that combines vacation time, sick time, and personal time into a single supply of days for an employee to use when the employee takes paid time off from work.

(7) (a) "Sick leave" means an employee benefit, provided under a written ~~f~~ — ~~f~~ sick leave policy, that entitles the employee to time away from work due to the employee's illness, injury, or medical need, whether paid or unpaid.

(~~f~~~~i~~)~~i~~b) "Sick leave" does not include a paid time-off policy, long-term disability benefits, short-term disability benefits, workers' compensation benefits, insurance benefits, or other comparable benefits.

Section 3. Section 34-28a-201 is enacted to read:

34-28a-201. Use of sick leave for care of immediate family members.

(~~f~~~~2~~)1) (a) An eligible employer shall allow an employee to use at least 10 days of accrued sick leave to ~~f~~ — ~~f~~ care for an immediate family member due to the illness, injury, or medical need of the immediate family member.

(b) Sick leave taken by an employee under Subsection (~~f~~~~2~~)1)(a) shall:

(i) be earned under the terms and conditions of the eligible employer's written sick leave policy; and

(ii) be taken in accordance with the terms and conditions of the eligible employer's

HB0069S01 compared with HB0069

written sick leave policy.

~~(3)(2)~~ An eligible employer may not take adverse action against an employee for using sick leave in accordance with this section.

~~(4)(a)3~~ An employee claiming to be aggrieved by an action of an eligible employer in violation of Subsection ~~(3)(2)~~ may file a written complaint with the division~~.~~

~~(b)~~ within 180 days after the day on which the alleged violation occurs.

Section 4. Section 34-28a-202 is enacted to read:

34-28a-202. Investigations -- Complaints -- Sanctions -- Rulemaking.

(1) The division shall investigate ~~and enforce violations of Subsection (3)~~ an alleged violation of this chapter.

(2) (a) An individual claiming to be aggrieved by an action of an employer in violation of this chapter may file with the division a request for agency action.

(b) Upon receipt of a request for agency action under Subsection (2)(a), the division:

(i) shall conduct an adjudicative proceeding in accordance with ~~Section 34-46-301.~~

~~(5)~~ Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) may attempt to reach a settlement between the parties through a settlement conference.

(3) (a) If the division determines that a violation has occurred, the division may order that the employer:

(i) cease and desist the action;

(ii) pay a fine to the division of up to \$500 for a violation; or

(iii) comply with a combination of Subsections (3)(a)(i) and (ii).

(b) Money received under this section shall be deposited as a dedicated credit to the division to pay for the costs of administering this chapter.

(4) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this ~~section.~~

~~(6) This section~~ chapter.

Section 5. Section 34-28a-203 is enacted to read:

34-28a-203. Limitations.

(1) This chapter does not extend the maximum period of leave to which an employee is

HB0069S01 compared with HB0069

entitled under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq., regardless of whether the employee ~~receives~~ received sick leave compensation during that leave.

(2) Nothing in this chapter shall be construed to invalidate, diminish, or otherwise interfere with:

(a) a collective bargaining agreement; or

(b) a party's power to collectively bargain for a collective bargaining agreement.